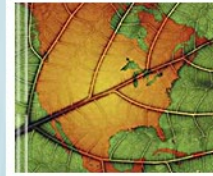




U.S. Department of the Interior

Collaboration Framework Workshop



Sponsored by:

Office of Collaborative Action and Dispute Resolution (CADR)

Office of Environmental Policy and Compliance

Office of the Solicitor

The MIT-USGS Science Impact Collaborative

The BLM ADR/Collaborative Action Program

DRAFT AGENDA

Thursday June 3, 2004

Items Included in this Package

1. Workshop Overview
2. Draft Agenda
3. Results of Pre-Conference Survey
4. Preliminary Assessment of DOI Public Participation Policy and Training
5. Glossary of Terms
6. Background on facilitators

Items to be Handed out at Workshop

7. Participant list and contact information
8. Draft framework

8:30 – 9:00

Introduction to Workshop – Elena Gonzalez
Overview of goals, agenda, and groundrules

9:00 – 9:30

Review the state of the practice generally

- Public Participation and Involvement – Douglas Sarno
- Environmental Dispute Resolution – Cherie Shanteau
- Consensus Building – Patrick Field
- Community-Based Collaboratives and Partnerships – Steve Yaffee

9:30 – 11:00

Summary of Collaborative Processes in DOI

- Overview of collaboration use in program area – results of the survey
- Highlights of current practice
- Highlights of current challenges (what we need most)
- Discussion and dialogue

11:00 – 11:15

Break

11:15 – 12:30

Identify core principles and competencies that all programs should use in applying collaborative processes – small group discussions

12:30 – 1:30

Lunch

1:30 – 3:00

Small group reports and plenary discussion of common principles

3:00 – 3:15

Break

3:15 – 4:30

Begin creating a collaborative framework to assist in making good process selection

- What is the tool's intent?
- Who will and can use it?
- How to improve the initial draft?

DRAFT AGENDA

Friday June 4, 2004

8:30 – 8:45

Review first day results and agenda for second day

8:45 – 12:00 (with a break)

Continue creating a collaborative framework to assist in making good process selection

OR

8:45 – 12:00 (with a break)

Three possible break out groups:

- Refining the framework to help identify, clarify, and make process choices
- Developing a communications plan for the framework and collaboration more generally across bureaus
- Identifying training and other capacity building needs, sharing and building on information from the 4Cs Team effort in this regard.

12:00 – 1:00

Lunch

1:00 – 2:00

Implementation of the framework (topic group discussions)

- Communication needs, what needs to be understood by whom?
- Guidance and policy needs, what can be accomplished through policy?
- Training needs, what skills are needed and how best to develop them?
- Nontraditional capacity building, what can be done in new ways?

2:00 – 2:15

Break

2:15 – 3:30

Implementation Groups Reports and Plenary Discussion

3:30 – 4:00

Wrap-up and Next Steps



Workshop Overview

GOALS

1. To create an understanding of what collaborative processes are available to DOI
2. To create an understanding of how collaborative processes are currently being used throughout the Department
3. To create a framework for understanding how to select appropriate collaborative processes to fit specific situations
4. To identify specific ways to better incorporate collaborative processes into the common culture of DOI

OBJECTIVES

1. Build individual and organizational relationships among participants for future collaboration.
2. Learn about the current kinds and uses of collaborative processes within DOI, including what distinguishes one kind of process from another, including regulatory context, substantive issues, number and role of parties, role of agency, goals and objectives, and other distinctions.
3. Identify core principles and core competencies that cut across all kinds of collaborative processes.
4. Develop a framework of processes that can help guide selection of processes appropriate for intended uses and outcomes.
5. Identify what staff in the field, managers, and headquarters need in order to be more collaborative.
6. Develop what, to whom and how to communicate to others regarding what has been learned and developed in the Workshop.

PRODUCTS (during or after the Workshop)

1. One page, compelling graphic of the range of collaborative processes and how to select among them. Additional graphics/tables as needed.
2. Common “working” glossary of terms.
3. Table of current processes and uses within the Department.
4. Description of core principles and core competencies for collaborative processes.
5. Compilation of background policies, guidance, and other existing materials.
6. List of “What we need to do” to improve implementation of collaborative processes

PROPOSED GROUNDRULES

- Everything is on the table
- We learn from experience
- We don’t say “we can’t”, we say, “how could we”
- Everyone contributes
- Everyone listens
- We stay on track
- We’re not looking for perfection, but clarity

COLLABORATIVE PROCESSES

Survey Results

	BLM	FWS	IBLA	BIA/IBIA	NPS	OEPC	Solicitor	USGS
Partnership	✓	✓			✓	✓		✓
Collaborative Stewardship	✓	✓			✓			
Community Based Collaborative Problem Solving	✓	✓			✓			✓
Mediation	✓	✓	✓	✓	✓		✓	
Facilitation	✓	✓	✓	✓	✓		✓	✓
Joint Fact Finding	✓	✓	✓		✓		✓	
Alternative Dispute Resolution	✓	✓	✓	✓	✓	✓	✓	✓
Native American Consultation	✓	✓		✓	✓			
Consensus Building	✓	✓			✓	✓		
Public Involvement/ Participation	✓	✓		✓	✓	✓	✓	
Regulatory Negotiation							✓	
Strategic Outreach Planning		✓						
Team Building		✓						
Organizational Development		✓						

Collaborative Process	Brief Working Definition	How It Is Applied	Resources Used
Partnership	A partnership is a relationship between parties with a mutual interest to voluntarily share resources to accomplish work for the public good.	BLM has hundreds of partnerships at the national and local level with a wide spectrum of interests in order to facilitate resource management and relationship building.	National Training Center, Partnership Coordinator, Partnerships with organizations that assist BLM with partnerships.
Collaborative Stewardship	The full participation and open engagement of communities of place and communities of interest in: identifying the vision and goals of how public lands will be managed, problem solving, and implementation of management plans, projects, and activity plans.	To date only to a limited degree in a few locations. Most of the focus has been on planning efforts. Some work at the project level.	The Partnership Series, Consultants, Sonoran Institute, Community Vis, Red Lodge Clearing House, IECR, National Policy Consensus Center, CBI, Public Policy Research Institute UM, Paul Politzer, National Stewardship and Partnership Coordinator, ADR Advisors in the States, Centers, and directorates, and Manager-Advisors in the States
Community Based Collaborative Problem Solving	A subset of the above.	See above	See above
Mediation	Mediation a process to reach a mutually satisfactory agreement resolving all or part of the parties' underlying interests, needs and priorities	BLM is beginning to use mediation in both natural resource and personnel disputes.	IECR, Paul Politzer's office.
Facilitation	Process management.	Used in many meeting internally and externally.	NTC. BLM has a number of trained facilitators, and also use numerous contractors.

Collaborative Process	Brief Working Definition	How It Is Applied	Resources Used
Joint Fact Finding	Linking science with community.	Just beginning to use in planning. Is part of Community Based Stewardship training.	USGS, P Series
ADR	Group of formal processes that include, arbitration, neutral evaluation, fact finding, mediation, nonbinding summary bench and jury trial. Informal engagement with communities; Federal, Tribal, and local governments; partners and other stakeholders; and customers in the workplace, with the goal of ensuring a successful outcome for Bureau decision making ("upstream strategies") ...Although the primary emphasis is on prevention of conflict, BLM's ADR/ ADR-based Collaboration initiatives also address more formal conflicts or disputes as well as those associated with formal administrative or judicial filings (protests, appeals, contests, Complaints/ litigation, where the BLM's goal is to prevent, resolve, or mitigate adverse impacts to the Bureau where possible and to address all the parties' interests ("downstream strategies").	BLM has been increasingly using mediation. New strategies in ADR/ADR-based Collaboration and an extensive training program are being developed to enhance existing efforts with stakeholders or to undertake new initiatives.	IECR, Paul Politzer's office.

Collaborative Process	Brief Working Definition	How It Is Applied	Resources Used
Native American Consultation	Effort to inform and involve tribes in actions that may impact their interests	Require when ever BLM has an action that may impact tribes.	Native American Liaison Office. Consultation training NTC.
Consensus Building	Effort to get parties to resolve differences, create value, and make agreements that are fair, efficient, and sustainable.	With a mediator	NTC, IECR, CBI, Paul Politzer's Office, National Stewardship and Partnership Coordinator
Public Involvement and Participation	Includes our formal processes for gathering information from the public scoping, formal public meeting to provide information and get "input".	The primary practice in the BLM for engaging the public.	Public Affairs Offices at all levels, planning teams, training, planning contractors, etc.
Regulatory Negotiation	Working with interest groups (usually in a formal process) to identify their issues and get their "input" in regulatory process.	When regulations are beginning developed or revised.	Office of Regulatory Affairs and program staff.

FWS			
Collaborative Process	Brief Working Definition	How It Is Applied	Resources Used
Partnership	Formal agreements that involve a mutually understood relationship between/among the FWS and an outside entity(ies) (eg. Nongovernmental organization, Federal/State agency) to accomplish FWS mission and common conservation objectives.	Applied in virtually everything FWS does, but especially in efforts like "Partners" program, working with farmers and ranchers. The FWS has an extensive array of Memoranda of Understanding and Memoranda of Agreement with outside entities, as well as other types relationships with its partners and stakeholders.	<ul style="list-style-type: none"> • FWS programmatic and DCP staff • DOI Office of the Solicitor • Staff/legal counsel of partnering organization(s)

Collaborative Process	Brief Working Definition	How It Is Applied	Resources Used
Collaborative Stewardship	Work that occurs collaboratively between/ among the FWS and an outside entity(ies) to achieve common goals	There is likely a high degree of overlap of activities involving partnership and collaborative stewardship. An example of collaborative stewardship may be the FWS Conservation Forums, which bring together stakeholders to address topics of mutual interest.	<ul style="list-style-type: none"> • FWS staff/Staff of National Conservation Training Center • Professional facilitators
Facilitation	Formal management (by third party) of any collaborative stakeholder/ public input process (eg. Committee meetings, meetings with the public). Structured approach to enhance meeting management.	Facilitation assists in clarifying the purpose and goals for the FWS and involved stakeholders/ public as collaborative processes are undertaken on a wide variety of issues. Applied to internal meetings and meetings with partners, especially after other processes fail.	<ul style="list-style-type: none"> • FWS staff • Staff of National Conservation Training Center • Professional facilitators
Mediation	Final effort to solve very difficult issues	Contact ADR trained staff or contractor to listen to differences and point out possible solutions	<ul style="list-style-type: none"> • FWS staff • Outside contractors
Native American Consultation	Defined by law and in other strategic documents that guide the FWS' work	The FWS consults with Tribes on a host of issues, including Endangered Species Act-related activities, activities on National Wildlife Refuges, and Fisheries Program activities.	<ul style="list-style-type: none"> • FWS and DOI staff
Consensus Building	Achievement of a collective understanding by a group.	Using formally facilitated processes and more informal process, the FWS works to build consensus with stakeholders on a wide variety of issues. (eg. Sport Fishing and Boating Partnership Council "Partnership Agenda for Fisheries Conservation").	<ul style="list-style-type: none"> • FWS staff • Professional facilitators/Project managers

Collaborative Process	Brief Working Definition	How It Is Applied	Resources Used
Public Involvement and Participation	Formal and informal opportunities to engage members of the public in specific issues and/or the general mission of the FWS.	Like other Federal agencies, the FWS is mandated to provide opportunities for the public to participate in the review of many of the policies and regulations that shape the agency's work. In addition, there are numerous opportunities for public involvement and participation that are less formal (eg. Friends groups/ volunteers for National Wildlife Refuges and Fisheries Program facilities such as hatcheries.)	<ul style="list-style-type: none"> • FWS and DOI staff • Volunteers • Nongovernmental organizations
Consensus Building	Process to reach common ground and consensus with other government entities and other partners	Used to reach consensus with neighbors, partners and others on conservation actions.	FWS staff
Organizational Development	Using behavioral science and systems theory to help orgs in strategic goal achievement	As requested by programs	NCTC

IBLA			
Collaborative Process	Brief Working Definition	How It Is Applied	Resources Used
Mediation	Process in which neutral 3 rd party helps the parties/ stakeholders in a dispute reach a mutually agreeable resolution to their dispute. It's voluntary and confidential (to the extent recognized by applicable law and/or policy).	We're developing an ADR pilot program for IBLA using negotiation, mediation, and joint fact finding to resolve appeals. We'll also be doing case assessments and possibly conflict assessments. We've also had facilitated meetings.	In house neutrals, USIECR, other private neutrals, neutrals from other fed agencies

Collaborative Process	Brief Working Definition	How It Is Applied	Resources Used
Facilitation	Use of 3 rd party neutral to help a usually large group of people address issues of common concern and reach a consensus on those issues.	See above	See above
Joint Fact Finding	Use of neutral 3 rd party to investigate/review factual disputes and suggest a finding on these facts.	See above	See above
ADR	A range of processes used to resolve disputes outside of formal tradition, judicial and administrative litigation.	See above	See above

Board of Indian Appeals

Collaborative Process	Brief Working Definition	How It Is Applied	Resources Used
Mediation	The use of a neutral third person to assist interested parties to work through a conflict or dispute in order to, hopefully, reach an agreement as to how to proceed in a particular situation.	Mediation is frequently used when there is a concrete conflict or dispute that is amenable to resolution among the parties, i.e., there is no legal impediment to the parties' creativity.	In-house neutrals; contract neutrals, including both people learned of through word-of-mouth, and the USIECR roster of neutrals.
Facilitation	The use of a neutral third person to assist interested parties to achieve a specific goal. The goal may range from getting through a particular meeting productively, to resolving a dispute.	Facilitation is frequently used when there is a desire on the part of the participants to achieve a goal at a particular meeting or workshop, etc. Facilitation helps free the participants from the task of recording notes, thereby allowing them to participate more fully in the discussion and to listen better.	In-house neutrals; in-house employees; contract neutrals, again including both people learned of through word-of-mouth and the USIECR roster

Collaborative Process	Brief Working Definition	How It Is Applied	Resources Used
ADR	A broad term encompassing a range of alternative processes to resolve disputes among parties—alternative to traditional adversarial methods of dispute resolution, including, for example, formal administrative appeal processes (such as in bureau appeal procedures and the Office of Hearings and Appeals) and the court systems. I tend to think of ADR as operating at the down-stream side of things, after a dispute has arisen. Of the list given under (1), I would include Mediation, Facilitation, and Joint Fact Finding as what I consider ADR. Others include arbitration, settlement judging, mini-trials, etc.	ADR is used to resolve disputes in a less adversarial manner, and hopefully to build rather than harm relationships, allow more creative resolution of issues, allow more global resolution of issues, and provide more lasting resolution of issues. In some, but not all, cases, ADR may be quicker and cheaper, but that should not be the prime goal—the things listed first should be.	In-house neutrals; contract neutrals, including word-of-mouth and USIECR roster; Office of Hearings and Appeals judges.
Native American Consultation	A specific form of public participation aimed at providing an opportunity for American Indian and Alaska Natives to have input into programs intended for their benefit and into other matters which directly affect them. Consultation is an aspect of the government-to-government relationship between tribes and the Federal government and is a recognition of tribal sovereignty and right of self-determination.	Consultation is used whenever a Federal agency takes an action that will affect American Indians or Alaska Natives. It should be a genuine exchange between the Federal agency and the affected tribe or tribes, not just a statement that “this is what we are going to do to you.”	Generally, employees of the Federal agency involved. The use of outside neutrals, such as facilitators, however, can improve the exchange by allowing the Federal employees to be free from the responsibility for taking notes, thus allowing them to listen better.
Public Involvement and Participation	Checked this because Tribal Consultation is a form of it		

OEPC			
Collaborative Process	Brief Working Definition	How It Is Applied	Resources Used
Partnership	Joining with other organizations as equals to achieve a goal or set of goals.	Greening Partnership – PAM and MRPS	OEPC Staff
Alternative Dispute Resolution	Using non-judicial means to settle disputes usually with a mediator	OEO Case	DOI Staff
Consensus Building	A voluntary process whereby entities come together to seek solutions to problems or issues that all can “live with.”	Production of Environmental Statement Memoranda	OEPC Staff
Public Involvement and Participation	A variety of ways that the public may have influence on decision making. The variety ranges from public meetings to letter writing and influence can range having comments considered to a seat at the table or veto authority.	Held public meetings to get input on revisions to DOI’s NEPA procedures	OEPC Staff

USGS			
Collaborative Process	Brief Working Definition	How It Is Applied	Resources Used
Partnership	Partnership—A relationship that involves equal status for both parties working in collaboration toward a shared goal.	Partnering occurs between the USGS and other agencies and in some cases, with universities or other entities. In my project work, we are partnering with DOI agencies to collaboratively define the science questions that the USGS can address.	MOU’s

Collaborative Process	Brief Working Definition	How It Is Applied	Resources Used
Community Based Collaborative Problem Solving	A process by which citizens and other interested parties come together and collaborate with agencies representatives to explore ways to find common ground as an approach to solve what are often contentious problems.	I participate as a science instructor in the BLM Community Based Stewardship Courses, which uses the principles of community based collaborative problem solving.	BLM Community Based Stewardship Courses; MOU with MIT/CBI
Facilitation	Guided meetings to help a group achieve its stated goals	Frequently used in meetings within the USGS.	A variety of sources within the USGS. Sometimes employees who have developed some skill in facilitation.
Alternative Dispute Resolution	An attempt to find a way to bring disputing parties to the table so that both sides see the perspective of the other party. The goal is to address disputes from a broader perspective, and to help the parties develop a working relationship that can help them deal with disagreements more constructively in the future.	Used within the USGS when managers determine that a disagreement among employees might benefit from a guided attempt to resolve differences.	Headquarters and Regional Human Resources Offices offer ADR services.

Solicitor

Collaborative Process	Brief Working Definition	How It Is Applied	Resources Used
Partnership	An ongoing collaboration with a group of stakeholders with interests in a particular resource or issue. A partnership provides citizens with the opportunity to participate in the mission of the bureaus; increases support for, and helps to build a constituency for, the work of the bureaus; and leverages resources of both the bureaus and their partners.	This process might be used by the Solicitor's Office in two general situations: 1) where a client bureau seeks to establish a partnership and requests legal assistance in creating or implementing the partnership; or 2) where a group of plaintiffs initiate a series of lawsuits regarding the same or substantially similar issues and establishing a partnership may be a way to resolve the issues preemptively and collaboratively with interested parties	The Solicitor's Office is in the process of developing a Partnership Primer, which could serve as a guide. We can also consult with CADR.

Collaborative Process	Brief Working Definition	How It Is Applied	Resources Used
Collaborative Stewardship	Managing resources cooperatively		
Mediation	The use of a neutral to assist parties to undertake a voluntary process of identifying interests and conducting joint problem-solving to reach a solution for a specific dispute that would work for all of the parties.	At the current time, this process is most commonly used when a court orders parties in litigation to undertake mediation. It is also used when parties in litigation seek the process themselves. It may also be used when parties identify a problem, but before they seek legal recourse. However, this approach is not generally taken in the ordinary course of business.	<ul style="list-style-type: none"> ▪ The US Institute for Environmental Conflict Resolution ▪ CADR ▪ DOJ's Office of Dispute Resolution ▪ ADR Act of 1990 and 1996 ▪ Departmental ADR Policy (1996) ▪ DOJ ADR Policy ▪ Federal ADR Council Guidance on Confidentiality ▪ Court provided or court suggested neutrals ▪ John Bickerman ▪ CDR Associates ▪ Donald Yee (Federal Facilities Mgr., EEOC in Seattle) ▪ Dick Andrews (CORE specialist, USGS) ▪ Nancy Pimenthel (NPS) for personnel disputes not involving NPS) ▪ EPA's ADR Office
Facilitation	Similar to mediation, but more complex, involving multiple parties, and addressing multiple issues that may or may not be in dispute.	The solicitor's Office would probably be more likely to use this particular process for conducting meetings with a number of parties or in conjunction with collaborative or public participation processes	<ul style="list-style-type: none"> • The US Institute for Environmental Conflict Resolution • CADR • Court provided or court suggested neutrals • EPA's ADR Office (i.e., David Batson)

Collaborative Process	Brief Working Definition	How It Is Applied	Resources Used
Joint Fact Finding	My understanding of this process is that it is a process in which parties in a dispute or potential dispute agree on an expert to undertake a review of the relevant facts in a case. This could also be used as part of a collaborative process even if no particular dispute or litigation is at issue.	The Solicitor's Office would be most likely to use this process in the context of litigation involving disputes that rely heavily on scientific or factual information.	<ul style="list-style-type: none"> • The US Institute for Environmental Conflict Resolution • CADR

ADR	<p>A voluntary process that encompasses a variety of dispute resolution methods that are used to resolve disputes in lieu of traditional adjudicative or adversarial methods. ADR typically involves the use of a third party neutral who assists the parties to design and conduct a process to find mutually acceptable solutions to resolve their disputes. ADR can include, but is not limited to, processes such as conciliation, facilitation, mediation, joint fact-finding, early neutral evaluation, binding and non-binding arbitration or mini trials. Such approaches usually favor “interest-based” rather than “position-based” approach.</p>	<p>In the Solicitor’s Office, ADR is typically used to resolve or manage disputes that are, or may be, the subject of administrative or judicial litigation where unassisted negotiation has not been, or is likely not to be, successful. Solicitor’s Office attorneys may also be called upon to assist client bureaus in using ADR to prevent potential disputes upon request.</p>	<ul style="list-style-type: none"> • The US Institute for Environmental Conflict Resolution • CADR • DOJ’s Office of Dispute Resolution • ADR Act of 1990 and 1996 • Departmental ADR Policy (1996) • DOJ ADR Policy • Federal ADR Council Guidance on Confidentiality • Court provided or court suggested neutrals • John Bickerman • CDR Associates • Donald Yee (Federal Facilities Mgr., EEOC in Seattle) • Dick Andrews (CORE specialist, USGS) • Nancy Pimenthel (NPS) for personnel disputes not involving NPS) EPA’s ADR Office
Collaborative Process	Brief Working Definition	How It Is Applied	Resources Used
Native American Consultation	<p>Discussion between tribal and feds re: fed actions that may impact tribal (can’t make out last word)</p>	<p>Regional Solicitor’s Office advises on consultation with Indian tribes</p>	

GLOSSARY OF TERMS

For The Department of Interior Workshop

Alternative Dispute Resolution:

There are many ways to resolve conflicts – surrendering, running away, overpowering your opponent with violence, filing a lawsuit, etc. The movement toward Alternative Dispute Resolution (ADR), sometimes referred to simply as conflict resolution, grew out of the belief that there are better options than using violence or going to court. Today, the terms ADR and conflict resolution are used somewhat interchangeably and refer to a wide range of processes that encourage nonviolent dispute resolution outside of the traditional court system.

Source: Association for Conflict Resolution

Collaborative Stewardship:

Collaborative stewardship is a process of scientists, government, and citizens working together to agree upon and attain goals and objectives that are environmentally responsible, socially acceptable, and economically viable

Source: USDA Forest Service

Collaborative Problem Solving:

In collaborative problem solving, parties work side by side to solve the problem together. Rather than negotiating from opposing positions, the parties, through a number of different techniques that we will describe, identify problems in terms of interests.

Source: Conflict Research Consortium, University of Colorado, and USA

Community-based Collaborative:

A Community-based Collaborative is a group that: Has been convened voluntarily from within the local community to focus on a resource management issue(s) or planning involving public lands or publicly owned or regulated resources whose management impacts the physical, environmental and/or economic health of the local community; was brought together by a shared desire to influence the protection and use

of natural resources through recommendations or direct actions that will impact the management of the resource; has membership that includes a broad array of interests, some of which may conflict; and utilizes a decision-making process that requires participation by local stakeholders.

Source: The Community-Based Collaboratives Research Consortium, a project of the Institute for Environmental Negotiation.

Consensus Building:

Consensus building is a process of seeking unanimous agreement. It involves a good-faith effort to meet the interests of all stakeholders. Consensus has been reached when everyone agrees they can live with whatever is proposed after every effort has been made to meet the interests of all stakeholding parties. ...Most dispute resolution professionals believe that groups or assemblies should seek unanimity, but settle for overwhelming agreement that goes as far as possible toward meeting the interests of all stakeholders.

Source: The Consensus Building Handbook, p. 6-7

Facilitation:

Facilitation is a meeting management skill. ... As the parties try to collect information, formulate proposals, defend their views, and take account of what others are saying, a facilitator reminds them of the ground rules they have adopted and, much like a referee, intervenes when someone violates the ground rules. The facilitator is supposed to be nonpartisan or neutral.

Source: The Consensus Building Handbook, p. 7

Facilitator:

A facilitator is a third party who helps the disputants to stay focused on working toward their common goals by following the agreed-upon ground rules. The facilitator takes a less active role in helping the parties find a solution than the mediator would.

Source: www.knowconflict.com/Impact_of_Terrorv110/glossary.html

Joint Fact Finding:

In joint fact-finding, the experts and the constituency groups that they represent develop and implement a joint strategy for answering the key policy questions, based upon generally agreed-upon scientific methods. It is commonly understood that the experts do not have to reach agreement on every issue. Their primary goal is to clearly separate the issues upon which they can agree from those which are still subject to debate and then report their findings to the parties. Here it is important for the experts to explain their findings in ways that non-experts can understand. Points of agreement can then provide the parties with a more informed basis for resolving the dispute.

Source: Conflict Research Consortium, University of Colorado, USA

In a collaborative process, not everyone will have the same amount of knowledge or information about the problem or issue. While one of the benefits of collaboration is working with people with diverse viewpoints and backgrounds, it also means people will interpret information differently. The purpose of joint fact-finding is to develop shared knowledge about the problem. It is a tool that negotiators can use to guide the process of gathering information, analyzing facts, and collectively making informed decisions.

Source: Managing Natural Resource Disputes – No. 8 Marlene Rebori, Western Area Community Development Specialist; Loretta Singletary, Central Area Extension Educator; Ann Ball, Special Assistant to Regional Director, Bureau of Reclamation

Mediation:

Mediation is a process in which a third-party neutral, whether one mediator or more, acts as a facilitator to assist in resolving a dispute between two or more parties. It is a non-adversarial approach to conflict resolution, where the parties generally communicate directly; the role of the mediator is to facilitate communication between the parties, assist them in focusing on the real issues of the dispute, and generate options for settlement.

Source: Dispute Resolution Center, Harris County Texas

Mediation: the act or process of mediating; especially: intervention between conflicting parties to promote reconciliation, settlement or compromise.

Source: 14th Century definition

Native American Consultation:

Since 1990, a growing number of statutes and executive orders specifically require federal consultation with Indian tribes. The common meaning is to ask advice of someone. A person may consult with a spouse before making reservations for a family trip; with an accountant before filing a tax return; or with an attorney before signing a contract. These individuals are not selected randomly: the spouse is familiar with the affairs of the family, the accountant knows the tax code, the attorney is expert in contract law. Each is in a position to inform the decision.

Source: National Park Service Archeology and Ethnography Program.

Consultation:

Consultation is the active, affirmative process of: (1) identifying and seeking input from appropriate American Indian governing bodies, community groups and individuals and (2) considering their interests as a necessary and integral part of the ... decision making process. This includes, but is not limited to: prior to taking any action with potential impact upon American Indian and Alaska native nations, providing for mutually agreed protocols for timely communication, coordination, cooperation, and collaboration to determine the impact on traditional and cultural life-ways, natural resources, treaty and other federally reserved rights involving appropriate tribal officials and representatives throughout the decision-making process, including final decision-making and action implementation as allowed by law, consistent with a government to government relationship.

Source: Native American Consultation Glossary

Negotiation:

Negotiation is a basic means of getting what you want from others. It is back-and-forth communication designed to reach an agreement when you and the other side have some interests that are shared and others that are opposed.

Source: Getting to Yes. Fisher, Ury, and Patton.

Partnership:

An association of two or more people who agree to share in the profits and losses of a business venture.

Source: National Futures Association

A Partnership is a relationship between two or more entities wherein each accepts responsibility to contribute a specified, but not necessarily equal, level of effort to the achievement of a common goal. The public and private sector contributing their relative strengths to protect and assure the continued operation of critical infrastructures.

Source: www.ciao.gov/ciao_document_library/glossary/P.htm

Public Involvement:

The term “public involvement” is used in this Policy to encompass the full range of actions and processes that [are used] to engage the public ..., and means that [decision-makers] consider public concerns, values, and preferences when making decisions. The term “the public” is used ...in the broadest sense to include anyone, including both individuals and organizations, who may have an interest in a ... decision.

Source: U.S. Environmental Protection Agency Public Involvement Policy

Public Participation:

The involvement of citizens in governmental decision-making processes. Participation ranges from being given notice of public hearings to being actively included in decisions that affect communities. See community collaboration.

Source: Mobilizing for Action through Planning and Partnerships (MAPP)

Any process that involves the public in identifying issues or decision-making and uses public input to make decisions

Source: International Association for Public Participation (IAP2)

Regulatory Negotiation, or Negotiated Rulemaking:

Negotiated rulemaking (or Neg/Reg) is a voluntary process for drafting regulations that brings together those parties who would be affected by a rule, including the Government, chartered as an advisory committee under the Federal Advisory Committee Act, to reach consensus on some or all of its aspects before the rule is formally published as a proposal. An impartial mediator is used to facilitate intensive discussions among the participants, who operate as a committee open to the public. Regulations drafted using this process tend to be more technically accurate, clear and specific, and less

likely to be challenged in litigation than are rules drafted by the agency alone without input from outside parties. As companion legislation to the Administrative Dispute Resolution (ADR) Act, the Negotiated Rulemaking Act was enacted in 1990 to encourage federal agencies to use this process.

Source: U.S. Department of Labor, Office of the Secretary

Robert’s Rules of Order:

A set of rules for nonlegislative assemblies throughout the country to assist an assembly to accomplish the work for which it was designed, in the best possible manner.

Source: Robert’s Rules of Order, modern edition, Preface by Darwin Patnode.



Prepared by:
Douglas Sarno and David Bidwell
The Perspectives Group, Inc.
1055 North Fairfax Street, Suite 204
Alexandria, VA 22314
703-837-1197

DISCLAIMER

This report was developed by The Perspectives Group under contract to the DOI Office of Collaborative Action and Dispute Resolution and provides preliminary results of the contractor. It is not intended to represent the views of any office of DOI. Additional information is still being sought and should be provided to the DOI Office of Collaborative Action and Dispute Resolution.

Purpose

This assessment was designed to take stock of current training and guidance related to the application of public participation throughout the Department of the Interior. Information was gained by individual conversations with members of the various bureaus identified, web searches, personal experience of members of the DOI project team, and a limited review among DOI staff.

Conclusions Of Assessment

There is some good policy and a number of good resources within the Department, but only within some of the bureaus. There is virtually no training that has been designed specifically for public participation, but there are a number of courses and programs that deal with similar collaborative approaches. Based on these preliminary observations, it would seem that the understanding and application of good public participation would likely be uneven. Effective and wide-spread training on public participation appears to be needed.

DOI Needs

Policy: Most important, the DOI needs to ensure that revisions to the 1978 policy are consistent

with good policies elsewhere in the Department, particularly in NPS. Ideally, the policy would not be very prescriptive, but lay out key principles and help to create a culture of participation in keeping with the Four C's.

Overview/Awareness Training:

There is a clear need for some level of overview training about the principles and characteristics of good public participation and especially when to use it and the value of public participation to the Department. This overview training can be relatively brief and it would be effective to combine it with the rollout of the new policy. This could be both an active module combined with other ongoing training and awareness as well as on-line.

Management Training:

Managers in charge of public participation programs would need specific orientation in how to manage these programs and create the most value for both the Department and the public.

Technical Staff Training:

Specific training for technical staff could be very useful to help them to understand why public participation is important to them, their role, and how to best communicate with the public.

Specialist Training:

It is important to identify the types of individuals throughout the Department who require a much more in-depth understanding of how to design and implement public participation programs with a special focus on effective meetings and effective advisory boards.

Team-Oriented Training:

One effective way to train P2 would be to have a package that can be brought directly to project teams so that all members of the team can learn

together and understand their individual roles and responsibilities with regard to the public.

Policy, Guidance And Resources

Many of the bureaus have a variety of policy and guidance developed on public participation with the most extensive within the National Park Service.

Department of Interior (General)

- <http://elips.doi.gov>.
- Part 301, Chapter 2 (1978), "Public Participation in Decision-making." The policy: "The Department of Interior will offer the public meaningful opportunities for participation in decision-making processes leading to actions and policies which may significantly affect or interest them." Section 2.5.B., states "In decision-making processes which already require public participation, officials will consider the usefulness of involving the public earlier or more frequently than mandated, or than has historically been done." (This guidance is currently under review for updating)
- Part 318, Chapter 5 (1998), "Public Participation in the Rulemaking Process." This section only clarifies requirements for notification and comment periods. Most of the section discusses the legal ramifications of ex parte communication.
- PEP-Environmental Statement Memorandum No. ESM03-4: Procedures for Implementing Public Participation and Community Based Training.
- PEP-Environmental Statement Memorandum No. ESM03-7: Procedures for Implementing Consensus-Based Management in Agency Planning and Operations.

National Park Service

- Draft Director's Order 75A, Civic Engagement and Public Involvement (<http://www.nps.gov/policy/DOrders/75A.htm>). Policy in progress, very strong foundation for good public participation.
- The Rivers, Trails and Conservation Assistance Program has a "Community Tool Box" available online (www.nps.gov/phso/rctcatoolbox/index.htm). This site provides a variety of

nuts-and-bolts information for people who must plan or implement a public participation program. It doesn't, however, provide much in terms of philosophy or why you need to involve stakeholders.

- The Cultural Management Resource Guideline (NPS-28) (http://www.cr.nps.gov/history/online_books/nps28/28contents.htm) Some chapters (e.g. Chapter 3 on planning) discuss consultation with some groups and adherence to NEPA, but not much emphasis placed on involving the public.
- NPS revised its guide to FACA policy in May 2003. It provides nuts and bolts of putting a committee together but does not talk about best uses of committees or how to run a committee once established. It is available at: <http://www.nps.gov/policy/DOrders/facaguide.html>
- The web site for the Historic Preservation arm of NPS provides a good overview of public participation including guidance and tips. A good bibliography provides list of Interior, other agency and private sources, with a number of links. <http://www2.cr.nps.gov/pad/PlanCompan/PublicPartic/ParticSources.html>
- National Park Service and Civic Engagement is a report of a workshop held in New York, December 2001. Provides a number of short case examples.

Fish and Wildlife Service

- The Fish and Wildlife Service's 2001 Handbook for Outreach (http://training.fws.gov/library/Pubs/outreach_handbook01pdf.pdf) is mostly a public affairs/public relations guide. Chapter 4c focuses on partnerships, but does not provide a lot of direct tools or instructions on how to create an effective partnership.
- Information on FWS Partnering Programs is available at <http://partners.fws.gov/>

Bureau of Indian Affairs

- No specific BIA programs were identified. The BIA website is still unavailable, due to the Trust litigation.

Bureau of Land Management

- Information on the National Training Center's Partnership Series is available at: <http://www.ntc.blm.gov/partner/>

Geological Survey

- A search of the regulations governing the USGS yielded nothing on public participation or consultation.

Office of Surface Mining

- A search of OSM regulations yielded only typical requirements for notification, public comment periods, and hearings. See <http://www.osmre.gov/rules/subchapterb.htm>
- Similarly, information is available on the public consultation section of the Surface Mining Act: <http://www.osmre.gov/smcra.htm#513>
- Information on how the Western Region Coordinating Center helps OSM satisfy Environmental Justice concerns for mining of Indian lands, see http://www.wrcc.osmre.gov/BlkMsaQ_A/public_participation.htm

Minerals Management Service

- An interesting example provided by MMS for how Environmental Justice concerns had been handled in one case: <http://www.mms.gov/eppd/compliance/12898/examples.htm>
- A brief discussion of partnerships at the agency can be found at: <http://www.mms.gov/eppd/sciences/esp/partners/index.htm>

Bureau of Reclamation

- The Bureau's policy on participation, as laid out in its manual, is good. It specifically notes that participation should be open and flexible (<http://www.usbr.gov/recman/cmp/cmp-p03.htm>).
- The Bureau also has a "Decision Process Guidebook" online, with a chapter on public participation (<http://www.usbr.gov/pmts/guide/pi.htm>).
- A report from 2003, *Water 2025: Preventing Crises and Conflict in the West*, lists "Collaboration" as one of four key tools. This report is available at: <http://www.doi.gov/water2025/ppt.html>

Mr. Field has worked on numerous public sector cases. He has facilitated hundreds of public meetings, workshops, citizen advisory meetings, technical workshops, and policy and management meetings.

PATRICK FIELD

Professional Practice

Patrick Field specializes in public sector mediation and consensus building and training in negotiation and consensus building. He is Managing Director of North American Programs at the Consensus Building Institute and Associate Director of the MIT-Harvard Public Disputes Program.

Mr. Field has worked on numerous public sector cases. He has facilitated hundreds of public meetings, workshops, citizen advisory meetings, technical workshops, and policy and management meetings. He has helped build agreement among state and federal agencies, communities, and citizens for the \$250 million cleanup of the Massachusetts Military Reservation Superfund site. He co-mediated a comprehensive agreement to resolve issues of air quality and cancer risk in four rural Maine communities surrounding a paper mill. He co-facilitated the rule development process for a phosphorus standard for the Florida Everglades. He is currently co-mediating the Superfund cleanup of a major industrial site in southwestern Connecticut and facilitating a national pilot on reducing air toxics in Cleveland, Ohio. Mr. Field has also prepared over fifteen conflict assessments with topics ranging from environmental issues and concerns in Coeur d'Alene, Idaho to the future use of town-owned beachfront property in Essex, Massachusetts.

Mr. Field has designed numerous teaching materials and taught hundreds of commercial, non-profit, local, state, provincial, tribal, and federal officials in negotiation and consensus building. Some of his training clients include the Land Trust Alliance, the San Diego Environmental Health Coalition, the U.S. Fish and Wildlife Service, the U.S. Forest Service, the Federal Energy Regulatory Commission, the Kentucky Natural Resources Leadership Program, the Alberta Environmental Appeal Board, and the Indian Taxation Advisory Board of Canada.

Education and Affiliations

Mr. Field is on the U.S. Institute for Environmental Conflict Resolution's roster of senior mediators. He is a member of the Massachusetts Trustees of Reservations Putnam Education Institute Advisory Board, board member of the Cambridge-based Community Disputes Settlement Center, and Training Director of the Western Consensus Council of Helena, MT. He holds a Masters in Urban Planning from the Massachusetts Institute of Technology and resides in Watertown, Massachusetts. He is co-author of the award winning 1996 book, *Dealing with an Angry Public*.

Mr. Sarno is the chief designer of the Certificate Course in Public Participation for the International Association for Public Participation and teaches the Resolving Complex Issues With Diverse Stakeholders course at NCTC.

DOUGLAS J. SARNO**Senior Facilitator and Trainer****The Perspectives Group, Alexandria, Virginia**

Mr. Sarno is a senior facilitator, trainer, and analyst with twenty years experience in decision-making, dispute resolution, public participation, and public information. His extensive work and numerous articles, reports, and presentations on collaborative decision-making and public participation have assisted many agencies in developing effective guidance and training. He has developed numerous training programs to assist professionals in designing effective communications and participation programs, establish effective teams, and communicate technical and risk-based information. He is the chief designer of the Certificate Course in Public Participation for the International Association for Public Participation and teaches the Resolving Complex Issues With Diverse Stakeholders course at NCTC.

Doug holds a Masters in Business Administration and a Bachelor of Science in Civil Engineering. His technical background provides him with the ability to understand and interpret complex technical issues for a lay audience. His public participation and information work includes the design and facilitation of numerous large and complex projects to implement detailed information programs and achieve consensus on highly complex and controversial issues. As a result of his work and experience, he has been asked to participate in a wide variety of task forces and advisory panels aimed at improving management and decision-making for numerous federal agencies and non-profit groups. He has served on several panels for the National Research Council of the National Academies of Science, Harvard University, and the U.S. Institute for Environmental Conflict Resolution. He also served five years as the Executive Director of the International Association for Public Participation.

Dr. Yaffee has worked for more than 25 years on federal endangered species, public lands and ecosystem management policy and is the author of Prohibitive Policy: Implementing the Federal Endangered Species Act (MIT Press, 1982) and The Wisdom of the Spotted Owl: Policy Lessons for a New Century (Island Press, 1994).

Steven L. Yaffee

Steven L. Yaffee is the Theodore Roosevelt Professor of Ecosystem Management and Professor of Natural Resource and Environmental Policy at the University of Michigan. He also directs the School of Natural Resources and Environment's Ecosystem Management Initiative, a research, teaching and outreach center focused on promoting sustainable management of natural resources. Dr. Yaffee has worked for more than twenty five years on federal endangered species, public lands and ecosystem management policy and is the author of *Prohibitive Policy: Implementing the Federal Endangered Species Act* (MIT Press, 1982) and *The Wisdom of the Spotted Owl: Policy Lessons for a New Century* (Island Press, 1994). His research tracking the on-the-ground progress at more than a hundred collaborative ecosystem management initiatives was first documented in *Ecosystem Management in the United States: An Assessment of Current Experience* (Washington, D.C.: Island Press, 1996). His most recent work explores ecosystem management as a conceptual framework for managing natural resources, and multi-party, collaborative problem-solving efforts as necessary elements of an ecosystem approach. The lessons from this research are summarized in *Making Collaboration Work: Lessons from Innovation in Resource Management* (Washington, D.C.: Island Press, 2000), a book co-authored with Julia Wondolleck. Dr. Yaffee also is a founding member of the Editorial Advisory Board for *Conservation in Practice*, and is experienced working with a variety of professional audiences on collaboration, negotiation, evaluation and adaptive management. Dr. Yaffee's Ph.D. is from the Massachusetts Institute of Technology in environmental policy and planning. His undergraduate and master's degrees are in natural resources from the University of Michigan. He has been a faculty member at the Kennedy School of Government at Harvard University and a Senior Fellow at the World Wildlife Fund.

Cherie P. Shanteau has designed ADR referral programs, successfully mediated numerous litigated and non-litigated matters, represented clients in mediation, and facilitated several large public disputes related to a variety of environmental issues.

**Cherie P. Shanteau,
Esq., Senior Mediator/Senior Program Manager,
U.S. Institute for Environmental Conflict Resolution**

Cherie P. Shanteau is an attorney, mediator/facilitator with the U.S. Institute for Environmental Conflict Resolution. She has program responsibilities for administrative appeals, courts, escalated disputes and litigated matters. In addition to case consultation and management, she provides program design, convening and process management services, mediation and facilitation, as well as ECR and negotiation training. Her subject matter expertise includes real property and environmental law, Western public lands issues including wilderness, grazing and endangered species. She has designed ADR referral programs, successfully mediated numerous litigated and non-litigated matters, represented clients in mediation, and facilitated several large public disputes related to a variety of environmental issues. She has taught mediation, negotiation, conflict resolution and communication skills to judges, lawyers, law students, other individuals, corporations and organizations in the United States and Europe. She is additionally qualified to administer the Myers-Briggs Type Indicator®.